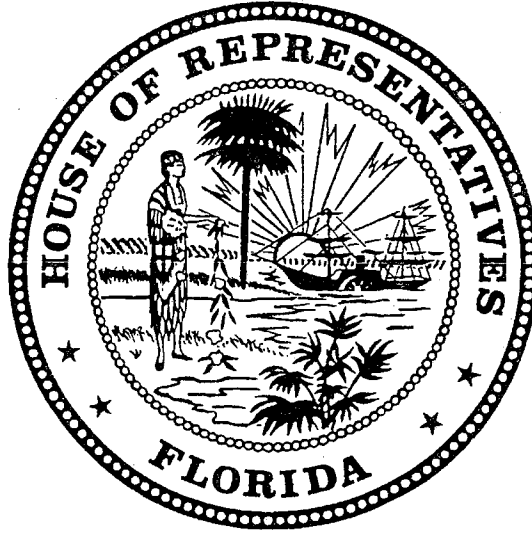


FLORIDA HOUSE OF REPRESENTATIVES

ENVIRONMENTAL REGULATION COMMITTEE INTERIM PROJECT 2005-2006



PUBLIC ACCESS FOR FLORIDA BEACHES

Representative Mitch Needelman, Chair
Environmental Regulation Committee
1102 The Capitol

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Project Overview

Introduction

As Florida's population has continued to increase and the number of tourists visiting the state's coastal areas has grown, conflicts have occurred between fundamental, constitutionally protected rights: the private property rights of coastal landowners and the public's access to publicly held lands.

In response to such conflicts, during the 2005 Regular Session Representative Aaron Bean filed HB 1463, which prohibited any person from obstructing either perpendicular or lateral access to a public beach area with a man-made obstacle or by encouraging naturally growing vegetation. The bill, which provided certain enforcement powers to the Attorney General, further prohibited any person from erecting a sign with the intent of falsely notifying the public that the public does not have the right to access or use the beach adjacent to the owner's land.¹

This report is intended to assist House Members in understanding the many issues related to beach access. The report also presents policy options House Members may wish to consider to address identified issues.

In preparing this report, staff analyzed relevant constitutional and statutory provisions and Florida case law. The Florida Constitution guarantees the public's right to traverse laterally along the coastal shoreline that is state-owned. Perpendicular access, however, is not guaranteed. As such, a person must cross private land, or publicly-owned uplands, to gain access to the shoreline. Along with the constitutional guarantee to traverse laterally along the shoreline, Florida courts have held the public may acquire and preserve rights to beach access through the legal means of "customary use," "prescriptive easement," or "implied dedication."

State and local governments share responsibility for the preservation and restoration of the state's beaches.² The state, in part, evaluates and coordinates the restorative work and assists local governments in maximizing access points, either through financial assistance in purchasing land parcels for public dedication, or through incentives in funding

¹ The bill language mirrors that of a draft proposed by, and listed on the site of the Florida Open Beaches Foundation, Inc., located at <http://www.openbeaches.org/foba.htm>. According to a Florida Department of Environmental Protection (DEP) analysis, the bill as drafted could be interpreted to prohibit government entities (such as emergency management and law enforcement personnel) from enforcing beach closure during storm events or posting beach safety and warning flags that provide information to the public on dangerous surf conditions.

² This report focuses primarily upon the statutory scheme granted to the Department of Environmental Protection to administer coastal issues relating to the coastal shore. It should be noted that the Division of Community Planning within the Florida Department of Community Affairs (DCA) has an active coastal management component, including the newly formed Coastal High Hazard Study Committee. The committee is charged with studying and formulating recommendations for managing growth in Coastal High Hazard Areas, which are defined as the Category 1 hurricane evacuation zones. According to the DCA website, a final report of findings and recommendations to Governor Bush is due by February 1, 2006. See <http://www.dca.state.fl.us/fdcp/dcp/chhsc/index.cfm>

powers, manage and regulate their coastal community, and share the cost of beach restoration with the state and/or federal government when appropriate.

For comparison purposes, staff researched other coastal states' law and conducted a multi-state survey regarding beach access, *vis a vis* perpendicular and lateral access along public beaches. Working with internet data and contacting representatives from the nation's coastal states, staff compiled legal authority regarding the delineation between public/private lands on the coasts and determined which states affirmatively prohibited obstructing access points with either a man-made or vegetative barrier or through misleading signage.

Staff also reviewed various reports relating to beach access issues, and contacted representatives from Florida state and local governments, to identify issues that affect beach access. In one such report, from 1994, a researcher who literally walked Florida's coast counted a total of 1,692 access points to sandy beaches. The exact number today is not known, but according to counts provided by the Florida Department of Environmental Protection and coastal county officials, the total ranges from 1,638 to 1,648.

In order to acquire anecdotal evidence of impeded access to public beaches, staff provided survey forms to various Florida chapters of the Surfrider Foundation³, and the Florida Open Beaches Foundation⁴, and requested that their leaders forward the survey to their membership. Another form was provided to Mr. Graham Ginsberg, a realtor in Collier County who maintains a website dedicated to beach access issues. A total of four surveys were returned: one from St. Johns County, and three from Collier County. The St. Johns County respondent is a litigant in an ongoing lawsuit regarding blocked access points. The county maintains it has taken steps to address the issue. The respondents from Collier County focus primarily on what they perceive as an inadequate number of access points. In these cases the county maintains it is addressing these issues as they deem appropriate within constraints imposed by their geography and budget.

In regard to the various issues identified by staff, below are policy options for lawmakers to consider.

- Maintain status quo. The issue of beach access is primarily a local issue and should remain local as each community differs in situation and need.
- Appropriate funds periodically (e.g., 10 year cycle) to perform a physical inventory of perpendicular access points. This will give local and state officials information to discern trends regarding perpendicular access points.

³ <http://surfrider.org/> The Surfrider Foundation USA is a non-profit environmental organization "working to preserve our oceans, waves & beaches."

⁴ <http://www.openbeaches.org/about.htm>. According to its website, the Foundation "...advocates and promotes the right of low-impact, non-discriminatory, open access to the state's beaches and coastal waters for all people."

- Fund a state-wide campaign to educate visitors and residents of the “public” nature of our shoreline, to promote charity and tolerance for all who wish to enjoy the state’s abundant coast.
- Fashion legislation prohibiting any person from blocking existing beach access with either signage or building material or vegetation, absent a permit from a regulatory authority.

1. Florida's Population

Florida remains one of the fastest growing states in the nation. During the 1990's, the number of people in the state rose by 3 million--only California and Texas grew by more during the decade. This represents nearly a 23.5 percent increase in population over the decade. The U.S. Census estimates that Florida's population is 17.5 million as of April 1, 2004. This estimate represents an increase of 1.5 million over the 2000 census count, a 9.6 percent growth over the four year period alone. Florida's population is expected to grow to 19,397,414 by April 1, 2010 (a 21.4 percent increase over 2000).⁵

The table below offers population numbers for the state of Florida and its coastal counties, from 1980, and projected to the year 2025.

Population numbers for Florida: state and coastal counties						
	1980	1990	2000 ⁶	2004	2015	2025
State Population	9,746,961	12,938,071	15,982,824	17,516,732	21,280,260	24,449,152
Coastal County Population Estimate	7,664,138	10,066,343	12,286,141	13,376,919	16,088,519	18,377,586
Coastal population as % of total population	78.6%	77.8%	76.9%	76.4%	75.6%	75.2%
Living within ½ mile of coastline ⁷	Estimate unavailable	Estimate unavailable	2,438,595	2,659,356	Estimate unavailable	Estimate unavailable

The percentage of total population living in counties bordering the Atlantic Ocean and Gulf of Mexico have remained relatively steady since the 1980s, however, the total population of the state has increased dramatically.⁸ A 75 percent to 78 percent concentration at Florida's coasts is a significant percentage because Florida's overall

⁵ Florida Demographic Summary:

<http://www.myflorida.com/edr/population/popsummary.pdf#search='1980%20census%20florida>

⁶ Source: Estimates for years 2000 – 2025 are from the Florida Legislature Office of Economic and Demographic Research/ Bureau of Economic and Business Research, University of Florida, 12/2003.

⁷ Coastal county population totals include persons living on barrier islands.

⁸ *The Common Law, Judicial Interpretation & Legislation: Tools to Preserve Access to Florida's Beaches* – A Policy Studies Monograph - Florida State University College of Law, February 1988, p. 7, citing Donna Christie, *Florida Coastal Law and Policy: Cases and Readings* 3-4 (1985)

population has increased from approximately 10 million in 1980⁹ to over 17 million in 2004, and is expected to top 24 million by 2525.

Coastal Saturation and Urbanization. The issue of urban sprawl is beyond the scope of this study, however, these population estimates suggest the need for careful decisions regarding the use of remaining, developable land near the coast and inland, all of which will affect beach access. According to the Environmental Protection Agency (EPA), population in coastal watersheds (areas draining into bays and oceans) is growing rapidly, with 55 percent of the U.S. population already living within 50 miles of a coast:

The pressures of coastal growth also profoundly affect the ability of NOAA and EPA to achieve national goals for sustainable management of coastal resources and protection of human health and the environment. This challenge was highlighted in the U.S. Commission on Ocean Policy's September 2004 report: "The pressures of continuing growth are acutely felt in coastal areas. While largely attributable to activities taking place at the coast, some pressures originate hundreds of miles away in inland watersheds." States and local governments have direct authority over land use and development decisions. Many communities are already moving strongly to address the challenges created by the impacts of current development patterns and practices. Communities are protecting critical watershed areas, adopting environmentally friendly development practices, strategically designating areas for future growth, and reducing pressure on undeveloped land by revitalizing brownfields and existing communities. The Ocean Commission report recognizes the importance of these efforts, recommending that: "The U.S. Environmental Protection Agency, the National Oceanic and Atmospheric Administration and other appropriate entities should increase assistance and outreach to provide decision makers with the knowledge and tools needed to make sound land use decisions that protect coastal water quality." In the past 20 years, the rate of all land development nationwide has grown 30 percent, twice the rate of population growth of 15 percent.¹⁰

Trends demonstrate that the fastest areas for growth and/or relocation within the state are north of Central Florida. While this may be an issue of population saturation levels, the population and tourism numbers alone suggest that the beaches will only experience greater problems as more and more people seek coastline destinations for vacation and recreation.

Typically, people on holiday visit Florida for three specific reasons: shopping, theme parks and Florida's beaches.¹¹ Both out-of-state and in-state visitors vacation at Florida's beaches; however, in-state numbers are hard to estimate. According to Visit Florida, the state's official source for travel planning, more than 76.8 million people visited Florida in

⁹ Richard L. Forstall. Population of Counties by Decennial Census: 1900 to 1990. ONLINE. 1995. Population Division, US Bureau of the Census. Available: <http://www.census.gov/population/cencounts/fl190090.txt>

¹⁰ <http://www.epa.gov/dced/noaamoa.html>

¹¹ <http://www.media.visitflorida.org/about/research/>

2004, a three percent increase from the same period in 2003. As the table below indicates, the number of visitors to Florida has increased steadily.

Historic Visitor Numbers (in millions)				
Year	Domestic	Overseas	Canadian	Total
1999 ¹²	51.4	5.8	1.7	58.9
2000	64.7	6.0	2.0	72.8
2001	62.3	5.3	1.9	69.5
2002	67.9	4.4	1.6	73.9
2003	68.7	4.2	1.6	74.6
2004	73.4	4.4	1.9	79.7

As the growth in population and coastal tourism increases with the demand for space and services, the friction between the competing interests of private landowners and visitors will likely continue. A pivotal issue that may either ease or exacerbate this friction is the number of beach access points along the coastal counties.

2. Inventory of Perpendicular Access Points

In 1993, the Florida Coastal Management Program¹³ funded a project conducted by the University of Florida to identify all of the governmentally-owned ocean-front and Gulf-front land parcels in the state of Florida. Led by Dr. Stephen Holland from the Center for Tourism Research and Development, Department of Recreation, Parks and Tourism, the purpose of the study was to literally count the number of perpendicular beach access points to sandy beach areas that were located on public property.¹⁴

Utilizing each coastal county's property appraiser, Dr. Holland and his staff located public property land parcels and conducted a field visit to each location and noted its characteristics and facilities, if any. Dr. Holland and his staff surveyed over 1,812,807 feet, or 343.3 miles of publicly-owned sandy shoreline and catalogued 1,162 distinct parcels with 1,692 access points.

The Florida Office of Park Planning, Division of Recreation & Parks, Department of Environmental Protection also maintains beach access information. It compiles its access information from a variety of sources, including: (a) "beach access" data from the

¹² In mid-1999, Visit Florida changed its domestic visitor estimation method to increase accuracy, so estimates made prior to that year are not directly comparable to more recent yearly estimates.

¹³ The Florida Coastal Management Program is based on a network of agencies implementing 23 statutes that protect and enhance the state's natural, cultural and economic coastal resources. Florida's Department of Environmental Protection is responsible for directing the implementation of the state-wide coastal management program.

¹⁴ Not included in the survey were privately-owned access points from hotels or private clubs. In addition, some publicly-owned, sandy beach area was excluded because such was not accessible by land or publicly accessible, as in some military areas. For instance, seashore adjacent to Patrick AFB, Tyndall AFB, and Key West NAS, is open to the public but this is not widely known. On the other hand, seashore adjacent to Mayport NAS, Kennedy Space Center, and Eglin AFB is not open to the public.

Beaches & Shores studies from the mid-1980's; (b) periodic updates of data on new properties or park units as part of the Statewide Comprehensive Outdoor Recreation Plan (SCORP) process; (c) local government input; and (d) sister state agencies and Water Management Districts. DEP reported a total of 1,638 access points, or 54 fewer than reported by Dr. Holland. In order to verify beach access information, committee staff independently contacted a representative in each coastal county (parks and recreation, tourism board, or county engineer), and recorded the number of access points as provided by that county representative. Totals for that survey were 1,308 access points, or 384 fewer sites than Dr. Holland's 1994 survey.

One explanation for the wide disparity for the survey counts may be jurisdiction. For example, in Pinellas County, Dr. Holland counted 125 sites. The DEP reported 199 sites. The county representative provided a count of only 15 sites. The majority of public beaches in Pinellas County are within several municipalities' boundaries and according to the Pinellas County Parks and Recreation official, the county has jurisdiction over those 15 sites. There is a similar situation in Brevard County, where Dr. Holland counted 166 sites in 1994, the DEP reported 220 sites, and the county representative reported the 41 sites where the county has jurisdiction. If the DEP numbers are accurate for Pinellas and Brevard counties, the total would be increased to 1,648; just 44 access points less than the 1994 survey.

A county by county inventory table comparing beach access numbers may be found in Appendix A. As the three surveys indicate, the number of beach access sites is a fluid figure. The 1994 survey is perhaps the most reliable count, but that is also the least recent count. In the next section the report examines the legal framework protecting the public's access to Florida's public shore.

3. Legal Framework

a. Florida Constitution

Florida has over 1,800 miles of coastline, of which 825 miles is comprised of sandy beaches. Florida's Constitution and its statutory law protect the citizens' right to enjoy Florida's coastline and provides that the right of public access to the shore lies seaward of the mean high water line (MHWL). Art. X, Section 11 of the Florida Constitution, states that lands seaward of the MHWL are "...held by the state...in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest." The ownership rights grew out of the English common law doctrine by which the sovereign held title to the beds of navigable and tidal waters in trust for the people. When the American colonies became independent states, each state gained title to lands beneath navigable waters under the public trust doctrine.¹⁵ When Florida was admitted to the Union on March 3, 1845, the State assumed title to and sovereignty over all lands under navigable waters, under the equal footing doctrine, except those expressly granted to

¹⁵ Martin v. Waddell, 41 U.S., 367, 410 (1842)

private interests by the Spanish government before the 1819 Treaty of Cession, and those conveyed by the federal government while Florida was still a territory.¹⁶

In Florida, the MHWL marks the boundary of the lands on the coast held in public trust from adjacent upland properties. Mean high water (MHW) is simply an established elevation based upon the average height of the high tide over a 19-year period. The MHWL is the intersection of the tidal plane of MHW with the shore.¹⁷ Florida law provides that while erosion or accretion from naturally occurring tidal activity may, over time, take land away or add to a person's upland holdings, erosion occurring as a result of a storm event does not change ownership boundaries.¹⁸ For instance, an upland land owner with a previous boundary 100 feet from a seawall will still be able to claim 100 feet from the seawall even if 50 of those feet are now under water following a catastrophic storm event.

b. Florida Statutes

While the Florida Constitution guarantees the right of its people to traverse laterally along its public shores, neither the Constitution nor the Florida Statutes guarantee the right of the people to get to the shoreline. Florida Statutes provides that "access" or "public access" means the public's right to *laterally* traverse the sandy beaches of this state where such access exists on or after July 1, 1987.¹⁹ In part to protect existing access points, Florida Statutes require permits under the Coastal Construction Control Line permitting program administered by the DEP Bureau of Beaches and Coastal Systems before anyone undertakes various types of coastal construction or reconstruction activities. Under this subsection, such development may not interfere with the public's use of any beach area seaward of the MHWL, unless such interference is unavoidable for purposes of protecting the beach or any endangered upland structure.²⁰

The State does not regulate the number or frequency of beach access points. However, where the public has established an access way through private lands to lands seaward of the MHWL by any legal means, Florida Statutes provide that "development or construction shall not interfere with such right of public access unless a comparable alternative access way is provided."²¹ In short, if a proposed development obstructs an existing access point, the developer is required to provide an alternate access point before the permit is approved.

¹⁶ *Broward v. Mabry*, 50 So. 826 (Fla. 1909)- as states were established they were admitted to the Union on an "equal footing" with the original thirteen colonies. The Treaty of Cession, February 22, 1819, was effective February 29, 1821.

¹⁷ Florida Statutes define MHW and the MHWL at subsections 177.27 (14) and (15), F.S.

¹⁸ 177.28 Legal significance of the mean high-water line.—

(1) ...

(2) No provision of this part shall be deemed to modify the common law of this state with respect to the legal effects of accretion, reliction, erosion, or avulsion

¹⁹ Subsection 161.021(1), F.S.

²⁰ Subsection 161.041(1), F.S.

²¹ Subsection 161.55(5), F.S.

c. Case law

The tenets of the public trust doctrine have been established in Florida case law for over a century. Under the public trust doctrine, littoral property owners held no valid claim to the land beneath navigable waters, and that the state held the title to submerged lands “not for purposes of disposition to individual[s]...but for all the people.”²² Access to, and use of, submerged lands were later held to extend beyond the traditional rights of navigation, commerce, and fishing, to include swimming and “other easements allowed by law.”²³

Over the years, the Florida courts have interpreted the constitutional and statutory grants regarding access to the beach, and have held that the public may acquire rights to perpendicular beach access through the legal means of “customary use,” “dedication,” or “prescriptive easement.”

Reynolds v. Volusia County,²⁴ demonstrates both customary use and dedication in a case regarding access to and use of a public beach. In Reynolds, upland owners who owned lots which faced the beach regarded themselves as having acquired the fee to the beach, and all appurtenant littoral or riparian rights, after streets fronting the beach were vacated by the city. The owners asserted these rights by writing a letter to Volusia County, asking that it cease using their beach-shore property for concession parking and recreational use. The county sued landowners for declaratory judgment verifying its powers to regulate and control public use of beach area adjacent to landowners' lots, and landowners counterclaimed for injunction restricting public use of beach, or in the alternative, inverse condemnation.

The lot owners conceded that by virtue of custom and usage, the public had a right to use the sandy beach area for recreation, but they claimed driving and parking private vehicles and concession stands were not part of those ancient customary rights.

Regarding dedication, the record demonstrated that the former property owner, C.F. Austin, recorded the plat in 1889 and included written language dedicating the land to public use. The court in Reynolds found that the Austin plat as a whole manifested the clear intent of the dedicator that the land between the lots and the ocean be used for the many purposes customarily incident to use of a beach at that time, including, but certainly not limited to, north-south travel by members of the general public along the boundaries of the property.²⁵

Regarding customary use, the Reynolds court found that the record demonstrated that the beach area included in the dedication was long used by the public for recreation and transportation purposes. Postcards depict horses and wagons on the sandy beach, before

²² State v. Black River Phosphate Co., 32 Fla. 82, 13 So. 640 (1893).

²³ Broward v. Mabry, 58 Fla. 398, 50 So. 826 (1909)

²⁴ 659 So.2d 1186 (Fla. 5th DCA 1995)

²⁵ Reynolds, at 1190, citing Brickell v. Town of Ft. Lauderdale, 75 Fla. 622, 628, 78 So. 681, 683 (1918).

the advent of cars and the construction of A1A, as well as persons walking, bathing and recreating.

The legal test for a prescriptive easement is an actual, continuous, uninterrupted use by the claimant of the lands of another, for a prescribed period. In addition, the use must be adverse under claim of right, and must either be with the knowledge of the owner, or be so open, notorious, and visible that knowledge of the use by and adverse claim of the claimant is imputed to the owner. Finally, the use or possession must be inconsistent with the owner's use and enjoyment of his lands and must not be a permissive use, for the use must be such that the owner has a right to a legal action to stop it, such as an action for trespass.²⁶

The Florida Supreme Court case of Hollywood, Inc. v. City of Hollywood,²⁷ provides an example for prescriptive easement. A summary of the facts is as follows: In the early 1920's, one Joseph Young began the development of what later became the City of Hollywood (he called it Hollywood-By-The-Sea).

On January 11, 1924, the plat of Hollywood Beach Second Addition was recorded by Young's Home Seekers Realty Company; on September 9, 1924, the plat of Hollywood Central Beach was recorded by the same company. On November 25, 1925, the Respondent, City of Hollywood, was created. Three years later Young deeded to the Respondent all of "the streets, drives, boulevards, alleys, ways, walks, avenues, parkways, and highways, by whatever name they may be termed, platted and described in that certain plat, also named in an amended plat, of Hollywood Central Beach".

Almost two years later, on April 25, 1929, two large money judgments were entered against Home Seekers Realty Company, forcing the sale of the properties. On September 1, 1930, Highway Construction Company of Ohio, Inc., acquired title to Block C, Hollywood Beach Second Addition; later, on December 1, 1930, that same company acquired title to Block 205, Hollywood Central Beach. Thereafter, on February 18, 1931, Highway Construction Company conveyed title to the Petitioner by fee simple deed, which the Petitioner recorded on February 21, 1931.

Over thirty years later, in June, 1964, Respondent recorded its notice of claim of ownership. In August, 1964, the tax assessor for Broward County sued both Petitioner and Respondent for a declaratory decree and equitable relief, alleging that both parties claimed ownership of two miles of ocean-front beach and that the tax status of the land was unclear. In September, 1964, Respondent filed its cross-claim against Petitioner.²⁸

In Hollywood, the Supreme Court acknowledged that a case for prescriptive easement was established. For over half a century, the Respondent uninterruptedly published to the world that the beach belonged to the Respondent. The Respondent never asked permission to use the beaches, yet it has openly and adversely occupied the beach by

²⁶ 100 So.2d 57, at 64.

²⁷ 321 So.2d 65 (Fla. 1975)

²⁸ 321 So.2d at 66-67.

improving it, erecting showers, planting trees, posting city signs, providing life guards and routinely raking, grading and maintaining the beaches. The public has used the beaches daily. The Respondent had carried the property on its tax rolls as a public beach, although the county did not always do so, and although the Petitioner twice wrote to the Respondent (once in 1945 and again in 1948) advising it that the company owned the land and that it wished the lands placed in the company's name on the tax rolls, Respondent refused to do so. Finally, the Respondent spent well over a million dollars on the beaches in its maintenance and improvement of them over a 50-year period.²⁹

In summary, the Florida Constitution establishes the right of the public to be on the public shore. Florida Statutes provide authority for executive agencies to preserve and restore the shore, as well as to direct local government to formulate plans of action to preserve existing facilities. Florida case law recognizes and seeks to preserve existing perpendicular access points in order to give meaning to the constitutional and statutory framework, and directs local governments to preserve and increase, if possible, its own access points.

d. Local regulations

Counties not operating under a county charter are authorized to carry on local self-government as is provided by general or special law. Counties operating under a charter shall have all powers of local self-government not inconsistent with general law.³⁰ Municipalities have governmental, corporate and proprietary powers to enable them to conduct municipal government, and may exercise any power for municipal purposes except as otherwise provided by law.³¹

Specific provisions of the Florida Statutes³² and the Florida Administrative Code Rules³³ require local governments to establish and implement coastal programs that complement the broad dictates of the Constitution and the more narrowly drafted Florida Statutes. An example of a coastal county ordinance which prohibits blocking beach access points is St. Johns County Ordinance 1997-34:

²⁹ Id. at 70

³⁰ Art. VIII, Section 1, Florida Constitution. County government powers are enumerated in Chapter 125, Florida Statutes.

³¹ Art. VIII, Section 2, Florida Constitution. Municipality powers are provided in Chapter 166, Florida Statutes.

³² Subsection 163.3177 (6), F.S., outlines the required elements of local government comprehensive plans as related to coastal areas. Paragraph (g) states that units of local government abutting the Gulf or the Atlantic shall set forth the policies that shall guide the local government's decisions and program implementation with respect statutory objectives, including the maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

³³ FAC Rule 9J5.012, Department of Community Affairs, in part, requires local governments to include within their plans: (a) Existing land uses in the coastal planning, (b) An inventory and analyses of the effect of the future land uses, (c) An inventory and analysis of the impacts of development and redevelopment proposed in the future land use, (d) An inventory and analysis of estuarine pollution conditions and actions needed to maintain estuaries, and (e) An inventory and analysis of natural disaster planning concerns.

Section 2.03. Prohibition of Obstruction: Personal access. Except as provided for in this Code, it shall be prohibited for any person to create, erect, or construct any structure, barrier, or restraint either vegetative or man made that will interfere with or obstruct the right of the public, individually and collectively, to enter or leave the beach by way of any approach or to use lawfully any part of the beach for recreation and other customary purpose.³⁴

Municipalities also regulate public rights-of-way. For instance, in Collier County, the City of Marco Island prohibits any object to be placed, constructed, or grown in any public right-of-way without a county or city permit if the object may endanger any person, damage the right-of-way, restrict existing or planned drainage, or impair normal maintenance.³⁵ In Pinellas County, the city of Indian Rocks Beach Code requires abutting property owners to maintain existing rights-of-way, including, but not limited to, mowing and trimming.³⁶

There are thirty-five coastal counties in the state, and literally hundreds of coastal towns and municipalities, but not all have ordinances which specifically prohibit activities as described in the St. Johns County ordinance.³⁷ Gulf and Franklin counties do not have such ordinances, but according to their respective county administrators, they do not have a problem with people purposefully blocking access points. Pinellas County does not have an ordinance prohibiting people from blocking of access points primarily because the majority of sand beaches are within municipality jurisdictions.

e. Other coastal states

The nation's coastal states all recognize and embrace the concept of the public trust doctrine, and each has enacted policy language encouraging the preservation and conservation of state-owned shore lands to be held in trust for its people. The states may also be divided neatly into two camps – low-tide and high-tide states. After that distinction, however, the states vary widely on the means to achieve those ends.

In “low-tide” states the title to lands below the low tide mark is vested in the state. The littoral landowner is deemed to hold title to the “foreshore,” or the land above the low tide mark. “Low-tide” states include Connecticut, Delaware, Maine, Massachusetts, New Hampshire, Pennsylvania, and Virginia.

In “high-tide” states the littoral landowner holds title only landward of the “high-tide” mark, and the “foreshore” is vested in the state. “High-tide” states include Alabama,

³⁴ Section 2.06 of the ordinance 1997-34 prohibits any person to erect signage that designates as private any section of public beach. See <http://www.clk.co.st-johns.fl.us/PDF/OrdinanceBooks/1997/ORD1997-34.pdf>

³⁵ Chapter 42, Article III, City of Marco Island Code of Ordinances. See, http://librarytest.municode.com/mcc/home.htm?infobase=14000&doc_method=cleardoc.

³⁶ Indian Head Rocks Beach Code Sec. 54-32. Maintenance of right-of-way; permitted and prohibited encroachments.

³⁷ An online database on which to search for municipality and county ordinances relating to beach access is Municode.com located at http://www.municode.com/resources/code_list.asp?stateID=9. In addition, county governments online will usually provide its local ordinances as well.

Alaska, California, Florida, Georgia, Hawaii, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas and Washington.

Of the 24 coastal states, only Florida defines its “high-tide” status in its state constitution, while the remainder of the states define that status in either statute or rule with the exception of New Hampshire. New Hampshire’s Supreme Court has held that its legislature is without authority to set such boundaries, and has ruled that the geographical limit of public rights in tidelands is set by the common law. The Court held that it could not delegate the responsibility for defining the limit of these common law rights to the legislature. A handful of states (i.e., Alaska, Hawaii, North Carolina, and Rhode Island) recognize in their constitutions the broad policy of unfettered access to state lands in general.

The states of California, Oregon, Rhode Island, and Texas have legislation that prohibit the construction of barriers that impede access. Texas also prohibits signage which represents in any manner that the public does not have the right of access to the public beach.

A table listing the coastal states, their tidal status, and the legal authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches may be found at Appendix B.

With an understanding of how Florida compares with other coastal states regarding constitutional, statutory and court interpretation of law impacting beach access, the report examines how local governments preserve existing access points and establish additional beach access points.

4. Local Governmental Efforts to Preserve or Establish Access

State and local governments share responsibility to preserve the public shore for their constituents. One method for local governments to establish additional access points is purchasing land for public dedication. Generally, local governments do not have excess financial resources available to compete on the open market for land parcels abutting the shoreline. Local governments do, however, exert pressure on builders to provide easement walkways where feasible as a contingency for approval of construction near the coast. In addition, local governments and non-profit groups may look to the Florida Communities Trust (FCT), which provides grants to eligible applicants for the acquisition of land for community-based parks, open spaces and greenways that further the outdoor recreation and natural resource protection needs identified in local government comprehensive plans.³⁸

For the first ten years, the FCT was funded primarily through the Preservation 2000 bond program, which was dedicated to the purchase of sensitive lands throughout the state.

³⁸ FCT, a part of the Florida Department of Community Affairs’s Housing and Community Development section, has been in operation since 1989.

Matching and full grants for land acquisition projects are provided to communities through an annual competitive application cycle. In 1999, the Florida Legislature approved Florida Forever as the successor program to Preservation 2000 and the FCT continues to assist communities as well as non-profit environmental organizations acquire land for conservation and recreation.

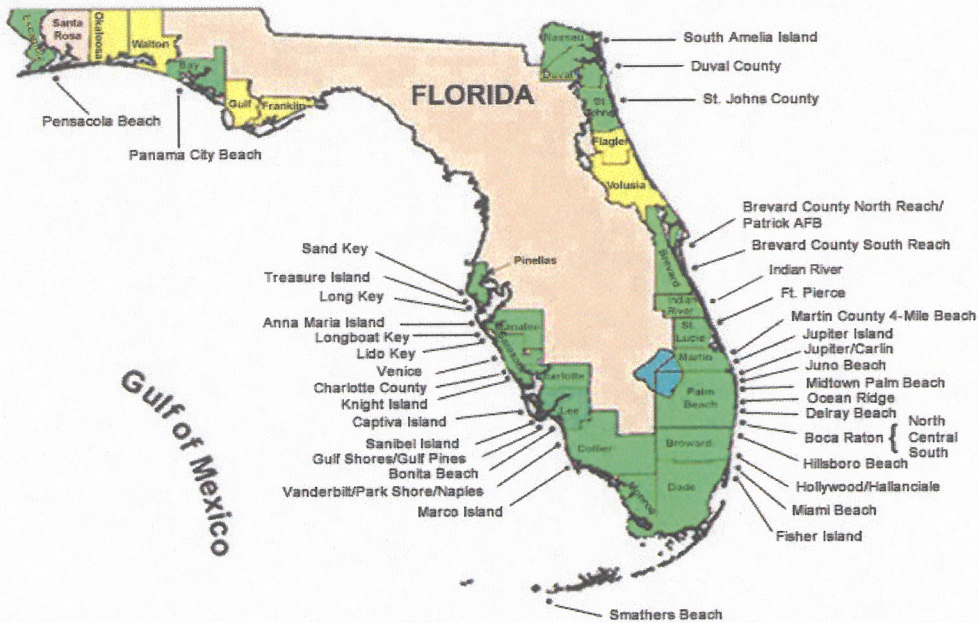
The Trust annually receives 22 percent of the \$300 million Florida Forever fund.³⁹ For fiscal years 2000 – 2005, the Trust and its local government partners have purchased over 28,000 acres of land at a total cost of \$303 million. Since 1991, the Trust has assisted local governments in acquiring over 9,000 acres of ocean, lagoon and bay access parcels at a shared cost of over \$107 million.⁴⁰

Another factor that affects perpendicular beach access is beach restoration or nourishment. The Florida DEP's Bureau of Beaches and Coastal Systems evaluates beach erosion problems throughout the state seeking viable solutions. The primary vehicle for implementing the beach management planning recommendations is the Florida Beach Erosion Control Program, which is a program established for the purpose of working in concert with local, state and federal governmental entities to achieve the protection, preservation and restoration of the coastal sandy beach resources of the state. Under the program, financial assistance in an amount up to 50 percent of project costs is available to Florida's county and municipal governments, community development districts, or special taxing districts for shore protection and preservation activities located on the State's saltwater shore. In addition, if the area is an inlet under federal control, the federal government will pay the majority of the cost of the project.

The graphic below shows recent restoration projects around the state, and may be accessed on the DEP website at <http://www.dep.state.fl.us/beaches/programs/mon-res.htm>, under the link for Beach Nourishment Project Monitoring Analysis.

³⁹The Florida Forever Program authorizes the issuance of \$3 billion in bond proceeds over a 10 year period for acquisition of land and water areas, and for restoration, conservation, recreation, and water resource development purposes. The first series of Florida Forever bonds was issued in 2001. Debt service for the first series of Florida Forever bonds was capped at \$30 million, with annual incremental increases of \$30 million up to a total of \$300 million.

⁴⁰ Acquired parcels ranged in size from 0.16 acre to 1,685 acres. The Trust has also been instrumental in helping governments acquire other water related parcels providing for river, lake, creek, and pond access.



According to the DEP, the green counties are coastal counties that have constructed beach restoration projects and have post-construction monitoring data entered into the database. The yellow counties are coastal counties for which there is not yet a constructed project, hence no monitoring data. Santa Rosa County is in pink because its Gulf shoreline is actually in Escambia County. Currently, there are nine projects that include federal involvement and federal funding: Duval, St. Johns, both sites in Brevard County, Ft. Pierce, Martin, Ocean Ridge, Venice, and Anna Maria Island.⁴¹

Beach nourishment is a temporary and costly endeavor. According to the DEP, a beach restoration event may be likened to repaving a roadway in that the finished product, over time, erodes with the effects of weather and traffic, and must be re-nourished on average every eight years. Depending on the location of the sand to be used for the re-nourishment, restoration may cost \$4 to \$40 a cubic foot. A recent restoration project in St. Augustine, for example, used 3 million cubic yards of sand to fill a beach area 2.5 linear miles long, and cost approximately \$19 million.

In negotiating a funding contract for nourishment maintenance with a local government, the state provides a financial incentive for local governments to provide increased access to the beaches through parking facilities and increased numbers of beach access points. According to the DEP, a typical agreement between the state and a local government will:

- Identify the project limits and the life of the project (number of years between nourishments).
- Establish the project eligibility, State cost share, and funding limitations.

⁴¹ The St. Augustine restoration project in St. Johns County cost approximately \$19 million with the federal government assuming over 85 percent of the cost, the remainder split between the state and the local government.

- Require the maintenance of public access and parking for the life of the project, and may also require the posting of access signs and require the refund of State funds if access or parking is removed from public use.

It is the public policy of the state to fix the boundary line between sovereignty lands of the state bordering the Atlantic, the Gulf, and the Straits, and the upland properties adjacent thereto, via beach restoration, beach nourishment, and erosion control projects. Prior to re-nourishment, the MHWL is established based upon the average height of the high tide over a 19-year period, in accordance with accepted surveying practices and principles and is reviewed and approved by the Florida Division of Surveying and Mapping. Once the MHWL is established, the property line becomes the proposed ECL, or Erosion Control Line. The ECL is recognized in Florida as the boundary between private upland property and submerged state-owned lands.⁴²

Once the sand has been placed, the resulting additions to upland property are also subject to a public easement for traditional uses of the sandy beach consistent with uses that would have been allowed prior to the need for the restoration project. In short, beach restoration “moves” the MHWL seaward, but the upland property owner’s boundary remains the same and never changes through erosion, or accretion, provided the state continues the re-nourishment program.

A further explanation of the establishment of the ECL with visual slides is provided in Appendix C.

Beach restoration and re-nourishment projects may also attract controversy. On August 10, 2004, Save Our Beaches, Inc., and Stop the Beach Renourishment, Inc., filed a lawsuit challenging the Joint Coastal Permit issued by the Department of Environmental Protection to the City of Destin and Walton County.⁴³

The suit is testing the constitutionality of sections 161.141, 161.161, and 161.191, F.S., asserting that the statutes “facilitate the physical confiscation of private property without providing landowners due process of law or just and full compensation through eminent domain proceedings.”⁴⁴ In short, the complaint alleges that the statutes, and therefore the State is taking a “stick” from the homeowners “bundle” of property right: in this case the right to own new land that might be created in the future should the Gulf deposit sand on the shore (accretion) where their property meets the sovereignty submerged land owned by the State, or should the Gulf’s waters lower to expose more of what is presently submerged (reliction). On July 20, 2005, the Court denied all parties’ cross motions for summary judgment, signifying that this matter is likely to proceed to trial. The practical effect of the plaintiffs prevailing in the suit would be eminent domain proceedings to compensate every coastal landowner who did not waive their right for compensation.

⁴² Section 161.161 (5), F.S.

⁴³ Case No. 2004-CA-2093, filed in the Second Judicial Circuit Court, Tallahassee, Florida.

⁴⁴ Plaintiffs’ Second Amended Complaint, Paragraph 26.

Despite the efforts of all levels of government to establish, preserve, and protect Florida's beaches for the use and enjoyment of all, reasonable people will differ as to what is adequate action. The next section will examine the results of the survey sent by staff to several organizations and one individual identified by either DEP or through their own Internet presence as activists in beach access issues.

5. 2005 Survey Results

Staff provided a survey form to several Florida chapters of Surfrider Foundation, the Florida Open Beaches Foundation, and to Mr. Graham Ginsberg, a Collier County realtor who maintains a website dedicated to beach access issues. The survey was designed to acquire anecdotal evidence of incidences of inhibited or blocked access to Florida beaches. A total of four surveys were returned; one from a resident of St. Johns County, and three from residents of Collier County.

The report provides a brief analysis of the respondent's comments, and follows with comments gleaned from county representatives. A copy of the survey form, full comments by the respondents and the government representatives, as well as detailed aerial photographs of many of the areas mentioned may be found at Appendix D.

St. Johns County Respondent: This individual is the lone respondent from Surfrider. The complaints accuse the county of obstructing beach access and eliminating parking through vacating control of a one-mile stretch of road. Several easements in Ponte Vedra Beach run between houses and are blocked by natural or landscaped vegetation. These complaints are part of a lawsuit against the county that is ongoing.

Local government response: According to local government representatives, the one-mile section of beach under dispute has perpendicular access points every 1/10 of a mile and has the most access points of the St. Johns beach system. The right-of-way area in dispute was given to the county over 50 years ago, but the county never officially accepted it. In 2004, the County Commissioners relinquished any claim they may have on the parcel and it is now in private ownership officially. Regarding the blocked access points, the county has sent out two letters to more than 300 oceanfront property owners instructing them to remove by December 15, 2005 any man-made objects such as fences and any vegetation such as shrubs and bushes, that create an obstacle to public beach access. According to the county attorney, code enforcement officials are making site visits now to confirm compliance.

Collier County Respondents: All three respondents highlight the Vanderbilt Beach area in north Collier County as an area with inadequate access points. Separating two public access points are three miles of beach fronting a Planned Urban Development named Pelican Bay. There are access points for Pelican Bay residents but no parking in the residential area for the public, despite county-owned land within the development. In addition, there is county property south of the Pelican Bay development which is accessible primarily by a free tram service. Also, in north Collier County, the only entrance to a public area called Barefoot Beach is through a beachfront subdivision that

has a guard station in the road. In the southern part of the City of Naples there is a residential neighborhood just north of a state park that is accessible only by boat which has no other access for the public. Finally, on Marco Island there is a private subdivision called Hideaway Beach which has utilized public funds for beach restoration for years.

Local government response: According to Amanda Oswald Townsend, Operations Analyst for Collier County Parks and Recreation, there is county-owned land within the Pelican Bay PUD that is practically inaccessible.⁴⁵ The City of Naples does have numerous beach access points along much of its shoreline, and there has been a push for annexation of Pelican Bay. In addition, the county is building a 350-space parking garage over the existing grade parking lot at Vanderbilt Beach. Several studies of available land and inquiries into specific parcels have been made to expand beach parking, but land is usually either unavailable or unaffordable. Finally, The Vanderbilt Inn was recently sold and approved for residential redevelopment. As a commercial entity it had previously served as a privately owned but publicly available beach access point. During the redevelopment approval process the county gained a 10-foot easement for public beach access and a \$500,000 developer contribution. The county plans to construct a turn-around and the terminus of Bluebill Avenue, which is also the entrance point to Delnor Wiggins State Park, and install a rest room and colonnade at the new access point, referred to as Vanderbilt Beach Access #8.

Regarding the guard shack at the entrance to Barefoot Beach, signs are posted at the shack that read something like “Park users proceed directly to park.” Park users are not required to stop at the guard shack. Admittedly, the configuration is less than inviting for first-time park goers.

Regarding Hideaway Beach, all of the beaches in Collier County that meet the public access requirements are re-nourished using tourist tax funds, commonly known as a bed tax. This is a continuous public funding source that is the only dedicated revenue source for beach re-nourishment in Collier. The sand placement for Hideaway Beach, however, was paid for by the residents and the homeowners association. Tourist tax was used to install permanent T-Groin structures to prevent future erosion.

According to DEP, if there are no access points, the state will not directly share funding for beach nourishment.

These issues reflect local circumstances, and local governments appear to be aware of the issues and are addressing them as they deem appropriate within constraints imposed by their budget or geography. It is likely that these local issues serve as an example of issues that face other local governments with beaches. As Florida’s population and number of tourists continue to grow, such issues will continue to confront policy makers.

⁴⁵ PUD stands for Planned Unit Development. A PUD is typically an area of land developed in accordance with a unified plan approved by the local government.

CONCLUSION AND RECOMMENDATIONS

In summary, although Florida's Constitution guarantees the public's right to traverse laterally along the state-owned shoreline, perpendicular access is not guaranteed. Within constraints imposed by private property rights, Florida law attempts to maintain existing beach access points through its permitting of coastal construction. State and local governments attempt to preserve and acquire beach access points by purchasing lands for public use. In addition, local governments promote beach access through their land development regulations and, in some instances, through direct regulation of activities that impede access.

In regard to the various issues identified by staff, below are policy options for lawmakers to consider.

- Maintain status quo. The issue of beach access is primarily a local issue and should remain local as each community differs in situation and need.
- Appropriate funds periodically (e.g., 10 year cycle) to perform a physical inventory of perpendicular access points. This will give local and state officials information to discern trends regarding perpendicular access points.
- Fund a state-wide campaign to educate visitors and residents of the "public" nature of our shoreline, to promote charity and tolerance for all who wish to enjoy the state's abundant coast.
- Fashion legislation prohibiting any person from blocking existing beach access with either signage or building material or vegetation, absent a permit from a regulatory authority.

APPENDIX A

Table A, below, demonstrates the results of separate surveys of beach access points on publicly-held land.

- Column 1 is the list of coastal counties arranged from Escambia County in the Florida panhandle on the Gulf coast around the state to Nassau County on the Atlantic coast, with the exception of Jefferson, Dixie, and DeSoto Counties, which, according to available information, do not have documented access points for beach access.
- Column 2 represents a baseline count for access sites by coastal county with sandy beach that was documented in 1994 by Dr. Stephen Holland with the Center for Tourism Research and Development, Department of Recreation, Parks and Tourism, University of Florida.
- Column 3 represents information compiled by the Florida Office of Park Planning, Division of Recreation & Parks, Department of Environmental Protection from a variety of sources, including: (a) "beach access" data from the Beaches & Shores studies from the mid-1980's; (b) periodic updates of data on new properties or park units as part of the Statewide Comprehensive Outdoor Recreation Plan (SCORP) process; (c) local government input; and (d) sister state agencies and Water Management Districts.
- In Column 4, committee staff contacted a representative in the target county, i.e., Parks and Recreation, Tourism Board, or county engineer, and recorded the number of access points as provided by that county representative.

Table A – Comparison of beach access site numbers			
Column 1 – Coastal County	Column 2 - 1994 On-site Survey	Column 3 – current DEP data	Column 4 – Count per County Rep.
Escambia	47	31	22
Santa Rosa	12	20	12
Okaloosa	25	38	10
Walton	40	14	56
Bay	107	131	93
Gulf	15	7	25
Franklin	78	22	56
Wakulla	2	3	2
Taylor	2	2	2
Levy	0	2	1
Citrus	1	1	1
Hernando	1	4	1
Pasco	3	5	3
Pinellas	125	199	15 ¹
Hillsborough	1	9	1

¹ The majority of sand beaches in Pinellas County lie within the jurisdiction of several municipalities. The county has jurisdiction over only 15 sites.

Table A – Comparison of beach access site numbers			
Column 1 – Coastal County	Column 2 - 1994 On-site Survey	Column 3 – current DEP data	Column 4 – Count per County Rep.
Manatee	61	103	9
Sarasota	0	23	23
Charlotte	3	28	3
Lee	70	89	88
Collier	45	51	7
Monroe	29	28	12
Miami-Dade	53	80	80 ²
Broward	85	108	108
Palm Beach	80	71	80
Martin	24	26	17
St. Lucie	28	30	20
Indian River	30	45	30
Brevard	166	220	41 ³
Volusia	154	58	171
Flagler	36	64	7
St. Johns	166	28	170
Duval	103	83	94
Nassau	67	15	48
Total	1692	1638	1308

² Staff relied on DEP numbers for access points after repeated calls to Miami-Dade officials were unreturned.

³ The majority of sand beaches in Brevard County lie within the jurisdiction of several municipalities. The county has jurisdiction over only 15 sites

APPENDIX B

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Alabama	High	The boundary at the shore between public and private land is the "mean high tide" (a.k.a. "mean high water") line. The primary authority for this rule in Alabama is the Supreme Court of Alabama's 1907 decision in <i>Mobile Transp. Co. v. City of Mobile</i> , 44 So. 976 (Ala. 1907). This case is still good law and is still cited regularly for this rule. The rule is reiterated in Alabama's administrative code at Ala. Admin. Code r. 220-4-.09(3)(n).	No
Alaska	High	The Alaska Constitution (Article VIII, sections 3, 6, 13) provide broad grants of use as under public trust. The term "shore lands" is defined as land belonging to the state which is covered by nontidal water that is navigable under the laws of the United States up to the ordinary high water mark as modified by accretion, erosion, or reliction (AS 38.05.965).	No, however, AS 38.05.128. Obstructions to Navigable Water provides that a person may not obstruct or interfere with the free passage or use by a person of any navigable water (with certain governmental exceptions listed therein). In addition, an unauthorized obstruction or interference is a public nuisance and is subject to abatement. The cost of abatement shall be borne by the violator and is in addition to any penalty imposed by the court.
California	High	CC Section 30103 "Coastal zone" means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards.	Yes, pursuant to CC Section 30211, development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.
Connecticut	Low	A line of state Supreme Court cases dating back to the earliest days of the State confirms that private property generally ends at the mean high water line (the line on the shore established by the average of all high tides) and that the state holds title as trustee to the lands waterward of mean high water, for the use and benefit of the public. Coastal Management Act Sec. 22a-90 et seq. cited. 35 CA 317-325 sets coastal boundaries.	No

¹ Language prohibiting any person to obstruct access to a public beach area with a man-made obstacle or with encouraging naturally growing vegetation, or erecting a sign stating that the public does not have the right to access or use the beach adjacent to the owner's land.

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Delaware	Low	Delaware's Subaqueous Lands Act (7 Del.C., Chapter 72) and subsequent Regulations Governing the Use of Subaqueous Lands provide the legal foundation for the regulation of all underwater lands channelward of the mean high water line in Delaware's tidal waters, as well as those lands channelward of the ordinary high water line in non-tidal waters.	No, however, construction or other regulated activities located anywhere channelward of the mean high water line would require a permit from the Regulator.
Florida	High	Art. X, Section 11 of the Florida Constitution, states that lands below mean high water line are "...held by the state...in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest."	No, however, subsection 161.55(5), F.S., provides that where the public has established an access way through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative access way is provided.
Georgia	High	OCGA 12-5-232 (8) 'Dynamic dune field' means the dynamic area of beach and sand dunes, varying in height and width, the ocean boundary of which extends to the ordinary high-water mark and the landward boundary of which is the first occurrence either of live native trees 20 feet in height or greater or of a structure existing on July 1, 1979.	No, however, the Shore Protection Act § 12-5-230, however, regulates activities within the "dynamic dune field" and prohibits any activity that alters the topography of the dune field without a permit.
Hawaii	High	Article XI, Section 1 of the State Constitution generally provides that all public natural resources (land, water, air, minerals and energy sources) are held in trust by the State for the benefit of the people. For the most part, there is no private ownership of the beach in Hawaii. Since the shoreline (upper reach of the wash of the waves) defines public access (not ownership) it actually acts as a defacto easement for the public to traverse private lands.	No, however, the various counties (Hawaii, Maui/Molokai/Lanai, Kauai, Oahu) respectively manage Shoreline Access and are permitted to pass regulations addressing access in accordance with the broad delegation of powers in the Constitution. http://www.co.honolulu.hi.us/refs/roh/index.htm#vol 2 http://www.hawaii-county.com/planning/rules.htm http://www.co.maui.hi.us/departments/Planning/czm p/intro.htm http://www.kauaigov.org/Planning/index.htm
Louisiana	High	The State of Louisiana owns the beds and bottoms of many waterways. This ownership generally extends to the average low water shoreline in rivers and other streams. The ownership in most lakes, bays, sounds, and similar water bodies and in the Gulf of Mexico extends to the mean high water line. RS 49.3	No

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Maine	Low	Chapter 202-A, sections 571-573, RMS, defines "intertidal land" to be all land of this State affected by the tides between the mean high watermark and either 100 rods seaward from the high watermark or the mean low watermark, whichever is closer to the mean high watermark. Persons have the right to use the lands for recreational purposes - This chapter does not affect public rights in dry sand areas upland from intertidal land arising from custom, prescription, implied dedication, acquiescence, the public trust doctrine or any other source.	No, however, to qualify for a lease or easement, the proposed use cannot have adverse impacts on access to or over the waters of the State; public trust rights - fishing, waterfowl hunting, navigation, and recreation; and/or services and facilities for commercial marine activities. Title 12 M.R.S.A. Section 1801 and 1862-1867
Massachusetts	Low	MGL CHAPTER 91. WATERWAYS "Commonwealth tidelands", tidelands held by the commonwealth in trust for the benefit of the public or held by another party by license or grant of the commonwealth subject to an express or implied condition subsequent that it be used for a public purpose. "Private tidelands", tidelands held by a private party subject to an easement of the public for the purposes of navigation and free fishing and fowling and of passing freely over and through the water.	No
Maryland	High	MC § 16-102. Public policy (broad recognition of public trust), and MC 16.101(n) State wetlands.- "State wetlands" means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide.	No
Mississippi	High	The boundary at the shore between public and private land is the "mean high tide" (a.k.a. "mean high water") line. The primary authority for the rule in Mississippi is the 1989 Public Trust Tidelands Act, Miss. Code sec. 29-15-1 to 29-15-23. The 2002 Mississippi Supreme Court case of Stewart v. Hoover, 815 So.2d 1157 (Miss. 2002) provides an excellent overview of the history of the Tidelands Act.	No
New Jersey	High	Tidelands, also known as riparian lands, are all those lands now or formerly flowed by the mean high tide of a natural waterway. The State of New Jersey owns all tidelands, unless it has already sold its ownership. 13:1B-13.3. 12:3-12.2 Development of "Guide to the Tidelands." NJAC 7:7E-8.11 Public Access to	No, however, New Jersey Administrative Code (N.J.A.C. 7:7E-8.11(b)(3) provides that public access must be clearly marked, provide parking where appropriate, be designed to encourage the public to take advantage of the waterfront setting, and must be "barrier free where practicable."

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
		the Waterfront -	
New Hampshire	High	1995 legislation (NHRS 483-C:1 Public Use of Coastal Shorelands) gave the public the right to shoreland access that was subject to the ebb and flow of tides. The state defined a "syzygy" line, a high-water mark in the sand, and said the public had a right to use the land between that mark and the water. Supreme Court overturned the law in <i>Purdie v. Attorney General of New Hampshire</i> – in effect stating that the legislature does not have the authority to define such rights. ²	No
New York	High	The State of New York has no statutory authority over land under the marine district and in specific with regard to underwater lands immediately seaward of mean high water. The state regulates water dependant structures under New York State Environmental Conservation Law Articles 15 (15-0505 Protection of Waters), 25 (Tidal Wetlands law) and 34 (Coastal Erosion)	No.
North Carolina	High	Article XIV, Section 5 of North Carolina's Constitution includes a broad reference to public rights to use the State's beaches. G.S. 113A-134.1 (authorizing the State's beach access grant program) recognized that "the ocean beaches are resources of statewide significance and have been customarily freely used and enjoyed by people throughout the State". G.S. 77-20 had long provided that the seaward boundary of all property that adjoins the ocean is the mean high water mark -- without addressing the question of how to locate mean high water. Rules adopted by the N.C. Coastal Resources Commission (the Commission with regulatory authority for our coastal zone management program) provided that, for permitting purposes, the location of "mean high water" could be determined by reference to the location of the dune line, vegetation line, trash line or other natural indicators of the ordinary or mean high water level. In 1998, the N.C. legislature imported that approach into the statute. G.S. 77-20(e) defines the term "ocean beaches" and states that the landward extent of the ocean beach may be determined by reference to natural indicators that include the vegetation line, the toe of the frontal dune and the storm trash line.	No

² <http://www.state.nh.us/judiciary/supreme/opinions/1999/purdie.htm>

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Oregon	High	<p>Oregon Beach Bill of 1967 and the State Planning Goal 17 for Shorelands. First, the Beach Bill established a permanent public easement for access and recreation along the ocean shore seaward of the existing line of vegetation, regardless of ownership. Earlier legislation had established the wet sand portion as state property and a recreational area. (Oregon Revised Statutes 390.605-755) The Beach Bill also set forth a policy, under what is now the Oregon Parks and Recreation Department (OPRD), to provide public access to the beach at routine intervals.</p> <p>The second pillar of public access is the requirement in Statewide Planning Goal for Shorelands that cities and counties, in coordination with OPRD, have plans to provide public access. The goal also requires that local governments protect those access sites and replace them if they are lost for any reason.</p>	Yes. Under ORS 390.672, the State Parks and Recreation Director may seek a judgment of double monetary damages to compensate the public for any negligent destruction or infringement of any public right of navigation, fishery or recreation resulting from such violation. The section permits treble damages for an intentional violation.
Pennsylvania	Low	<p>25 Pa. Code Sec. 105 - Dam Safety and Waterway Management – Relative to Coastal Waterways, PA regulates approximately 60 miles of Lake Erie shoreline, and approximately 60 miles of the Delaware River. In the non-tidal areas of Lake Erie, OHWM landward is owned absolutely by the riparian landowner. OLWM lakeward is owned absolutely by the Commonwealth. Between OHWM and OLWM both the Riparian and the Commonwealth have qualified ownerships and within this area there is a Public Access Easement. This easement is for lateral movement along the shoreline and is open for certain prescribed activities some of which are (but not limited to) fishing, fowling and navigation. Access to this easement area for non-riparian property owners is not permitted across private riparian property. Access to this area is permissible from the Lake and from the landside at public access points along the shoreline. These public access points can include parks, navigable streams and plotted subdivision rights-of-way.</p>	No, there is no state statute specifically addressing obscuring perpendicular access to waterways, however, 25 Pa. Code, Chapter 105 - Dam Safety and Waterway Management - regulates any obstruction (from the OHWM lakeward) on a regulated waterway - requiring a permit from the regulator. Along the tidal portions of the Delaware River obstructions are regulated between the ordinary high and low tides. Due to large scale bulkheading via port development and urbanization a public access easement is not present in this area.

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Rhode Island	High	Art I Section 17 of the State Constitution provides general rights to enjoy the shore for fishing, bathing and passage along the shore. R.I.G.L. § 46-23-1(f) - the state maintains title in fee to all soil within its boundaries that lies below the high water mark, and it holds that land in trust for the use of the public.	Yes, effective January 15, 2006, any person who shall post or block any tidal water, public right-of-way, as designated by the council, shall be punished by a fine not exceeding \$500 or by imprisonment for not more than three months or both; and each day the posting or blocking continues or is repeated shall be deemed a separate offense. The chairperson of the council, through council's legal counsel or the attorney general, may apply to any court of competent jurisdiction for an injunction to prevent the unlawful posting or blocking of any tidal water, public right-of-way. § 46-23-7.4
South Carolina	High	SCC 48-39-220 the State is presumed to own all land between mean high water and mean low water unless a property owner can demonstrate otherwise through legal action against the state. Under 48-39-120(B), no property accreted through natural forces	No. According to a regulator with the South Carolina Department of Health and Environmental Control, access obstruction is really not an issue in South Carolina, although there is no law that specifically addresses this issue. If a neighboring property owner attempted to block perpendicular or lateral access, the local government would remove the obstruction. In addition, signs giving false information about public beach access would also be removed by local authorities.
Texas	High	Open Beaches Act - Chap 61, Texas Statutes - Landward of the mean high water or mean higher high water line, which delineates the boundary of state-owned submerged lands, beaches can be privately owned, but are subject to the public beach easement, allowing the public free and unrestricted access to and use of the beach.	Yes - § 61.013 prohibits the construction of barriers impeding access. § 61.014 prohibits the denial of access by posting signs represent in any manner that the public does not have the right of access to the public beach as guaranteed by the Act.
Virginia	Low	Virginia Code - § 28.2-1200. Ungranted beds of bays, rivers, creeks and shores of the sea to remain in common. All the beds of the bays, rivers, creeks and the shores of the sea within the jurisdiction of the Commonwealth, not conveyed by special grant or compact according to law, shall remain the property of the Commonwealth and may be used as a common by all the people of the Commonwealth for the purpose of fishing, fowling, hunting, and taking and catching oysters and other shellfish. No grant shall be issued by the Librarian of Virginia to pass any estate or interest of the Commonwealth in any natural oyster bed, rock, or shoal, whether or not it ebbs bare. § 28.2-1202. Rights of owners to extend to mean low-water mark.	There is no state law in Virginia that directly relates to public access. However, legislation such as the Chesapeake Bay Preservation Act, Primary Sand Dunes and Beaches Act and the Wetlands Act enable public access sites for water dependent uses (e.g., installation of boat ramps).

Table – Listing of coastal states, tidal status, authority defining public trust lands, and existence of law prohibiting inhibiting access to public beaches

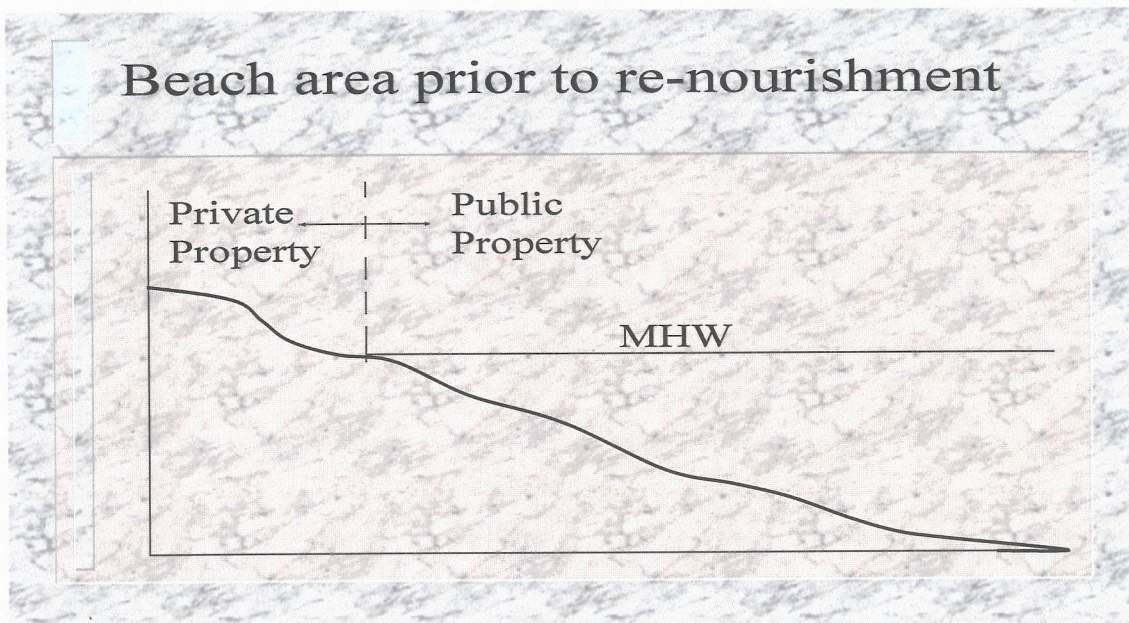
State	High or Low-tide State	Authority defining public trust lands from privately-held lands on the coast	State Statute with language similar to HB 1463 filed in the 2005 Regular Session? ¹
Washington	High	RCW 79A.05.600 through 79A.05.695 -- All Washington State owned beaches lying between the line of ordinary high tide and the line of extreme low tide referenced in RCW 79A.05.605 are included in the Washington State Seashore Conservation Area.	No, but local jurisdictions are encouraged to adopt provisions within recreation management plans that exceed the requirements of general law.

APPENDIX C

Establishment of the Erosion Control Line

Pursuant to s. 161.41, F. S., it is the public policy of the state to fix the boundary line between sovereignty lands of the state bordering the Atlantic, the Gulf, and the Straits, and the upland properties adjacent thereto, via beach restoration, beach nourishment, and erosion control projects. Prior to the construction of a beach restoration project, however, the board of trustees must establish the line of mean high water for the area to be restored. This is accomplished through legal notice and a public hearing process.

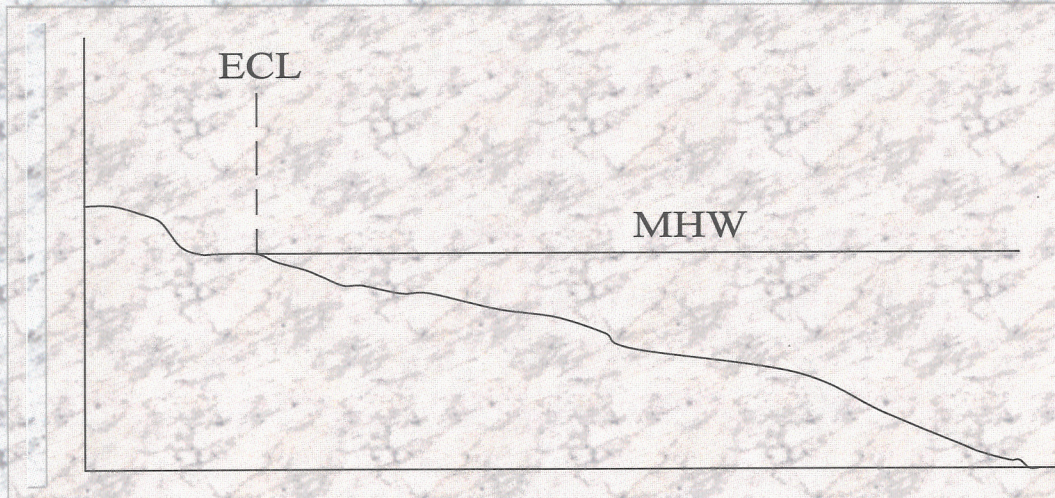
Prior to re-nourishment, however, the mean high water line is an elevation established based upon the average height of the high tide over a 19-year period. The MHWL is established in accordance with accepted surveying practices and principles and is reviewed and approved by the Florida Division of Surveying and Mapping.



Once a beach has been designated for re-nourishment, and the MHWL established, the property line becomes the proposed ECL, or Erosion Control Line. The ECL is recognized in Florida as the boundary between private upland property and submerged state owned lands.¹

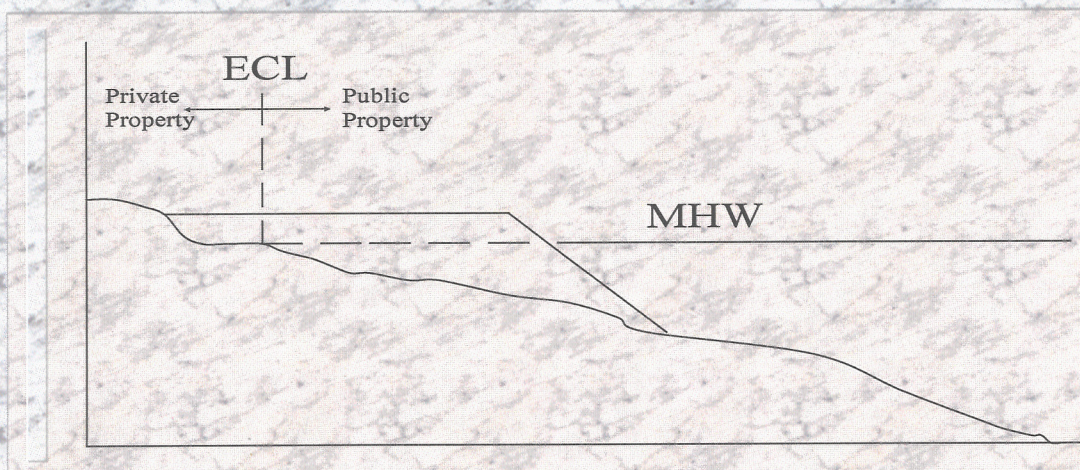
¹ Section 161.161 (5), F.S.

Property Line Becomes the Erosion Control Line

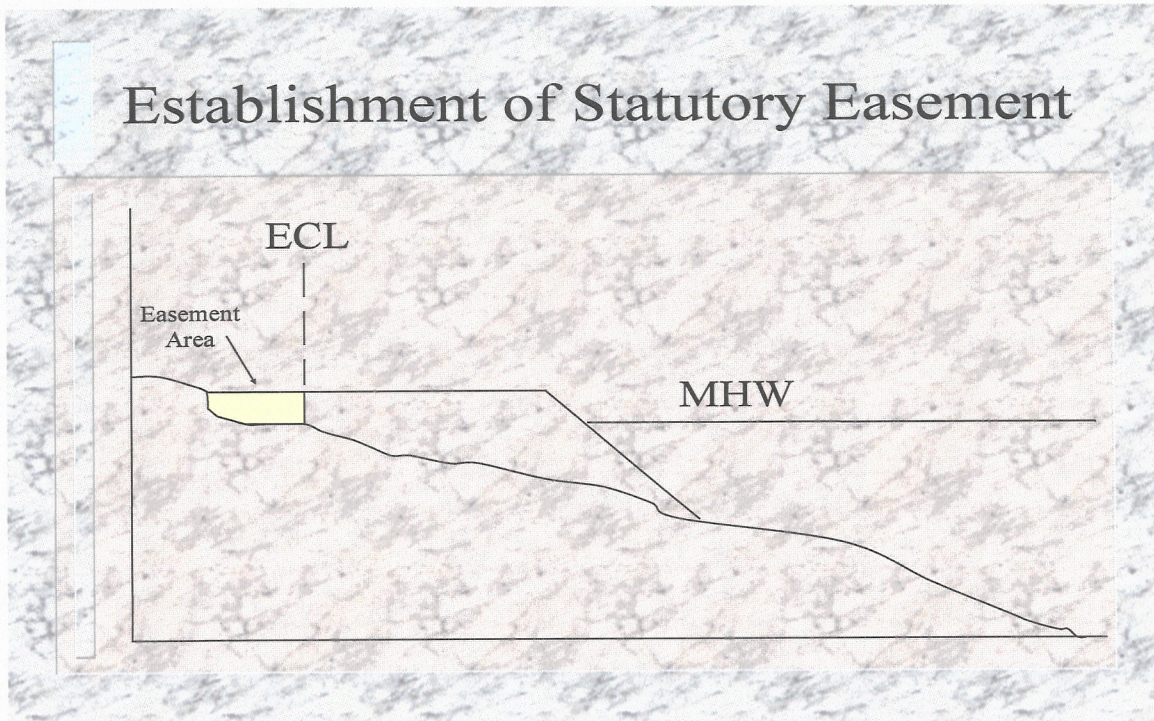


As the slide below demonstrates, if one were standing on a restored beach, between the water and someone's private residence, it is not intuitively obvious where the boundary lies between state-owned lands and privately-owned property. The knowledge that the Florida Constitution places the property line at the MHWL is of little use if the beach has been restored or re-nourished.

Beach Re-Nourishment



Once the sand has been placed, the resulting additions to upland property are also subject to a public easement for traditional uses of the sandy beach consistent with uses that would have been allowed prior to the need for the restoration project. It is further declared that there is no intention on the part of the state to extend its claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his or her property. Section 161.141, F.S.



APPENDIX D

In order to acquire anecdotal evidence of impeded access to public beaches, staff provided survey forms to various Florida chapters of the Surfrider Foundation, and the Florida Open Beaches Foundation, and requested that their leaders forward the survey to their membership. Another form was provided to Mr. Graham Ginsberg, a realtor in Collier County who maintains a website dedicated to beach access issues. The first three surveys were received on December 13, 2005, and the fourth was received December 20. Respondent's comments are in italics.

A copy of the Survey form is below.

Survey Regarding Beach Access

This is a survey to document occurrences of impeded access to public beach areas, whether perpendicular access (to the water's edge), or lateral access (across sandy beach area). Thank you for your participation. Please email completed surveys to Michael Kliner, House Environmental Regulation Committee, Suite 1102, The Capitol, 402 South Monroe Street, Tallahassee FL 32300-1300, or email completed form to Michael.kliner@myfloridahouse.gov as soon as practicable.

Initials of participant: _____

I am a resident of _____ County.

I am a resident of the City of _____.

Location where restricted access to public beach area occurred (County, named beach, landmark).

Please describe the details of the incident:

Thank you for your participation. If you would like to be contacted for further interviewing, please provide contact information.

1. Participant SS, from Duval County, city of Jacksonville, provided the following information regarding St. Johns County – Ponte Vedra Beach between Corona and Miranda Rd.
 - *Residents obstructing public access paths with vegetation.*
 - *County Vacation of 34' by one-mile section of road right-of-way to prevent future parking.*
 - *County ban on parking for beach access on public right of way.*
 - *Removal of public parking on coastal road by the Ponte Vedra Inn and Club without permission of elected body.*

The respondent, Scott Shine, a chapter official for Surfrider in north Florida, is involved in a 2004 lawsuit between Surfrider Foundation and St. Johns County alleging blocked beach access points and a conveyance of land by the county.¹ St. Johns County has an existing statute (Ordinance 97-34) which prohibits any person from erecting or encouraging vegetation to grow that would obstruct access points to the beach.

Staff contacted St. Johns County Chief of Beach Operations, Dave Williams, and Assistant County Attorney Laura Barrow, regarding the above issue. According to those sources, the one-mile section of beach under dispute has perpendicular access point every 1/10 of a mile and, according to Mr. Williams, has the most access points of the St. Johns beach system. The right-of-way area in dispute was given to the county over 50 years ago, but the county never officially accepted it. In 2004, the County Commissioners relinquished any claim they may have on the parcel and it is now in private ownership officially.

Regarding the blocked access points, the county has sent out two letters to more than 300 oceanfront property owners instructing them to remove by December 15, 2005 any man-made objects such as fences and any vegetation such as shrubs and bushes, that create an obstacle to public beach access. According to the county attorney, code enforcement officials are making site visits now to confirm compliance.

2. Participant MLS from an unincorporated area in Collier County, near Vanderbilt Beach, provided the following information regarding the beach south of Vanderbilt Beach and Pelican Bay:

Years ago either the County or the State allowed an entire development of Pelican Bay to do away with access points except at either end of the development. Whenever residents of this development are interviewed they refer to it as their beach. It is not their beach. Meanwhile, there is county land within this development that should be turned into parking so that we

¹ The Surfrider Foundation, et and St. Johns County, et al., Case No.: CA 04-89, in the Circuit Court, Seventh Judicial Circuit, in and for St. Johns County.

can access our beach. The state should protect the people of Florida because Collier County is not looking out for its residents. Pelican Bay is pushing to be a part of the City of Naples. I would think that SOMEBODY out there could see that the residents of the COUNTY are given access when this happens. The City of Naples has access points and parking on every street. Collier County has been the worst possible steward of the land, especially in North Naples. We currently have parking for 150 cars in North Naples. Several parcels have come and gone and the county has made zero effort to purchase them for parking. A parking garage is FINALLY being built, I think to hold about 350 cars, but it's too little too late. The Vanderbilt Inn, where hundreds parked every day, is being sold and will be developed into yet another private high-rise tower. What is happening here is criminal. Land is sold all over the area with the lure of beach access that does not exist.

According to Amanda Oswald Townsend, Operations Analyst for Collier County Parks and Recreation, there is county-owned land within the Pelican Bay PUD that is practically inaccessible.² The City of Naples does have numerous beach access points along much of its shoreline, and there has been a push for annexation. In addition, the county is building a 350-space parking garage over the exiting grade parking lot at Vanderbilt Beach. Several studies of available land and inquiries into specific parcels have been made to expand beach parking, but land is usually either unavailable or unaffordable. Finally, The Vanderbilt Inn was recently sold and approved for residential redevelopment. As a commercial entity it had previously served as a privately owned but publicly available beach access point. During the redevelopment approval process the county gained a 10-foot easement for public beach access and a \$500,000 developer contribution. The county plans to construct a turn-around and the terminus of Bluebill Avenue, which is also the entrance point to Delnor Wiggins State Park, and install a rest room and colonnade at the new access point, referred to as Vanderbilt Beach Access #8.

3. Participant GG, of in Collier County provided the following information:

- *COLLIER, PELICAN BAY – SOUTH OF RITZ CARLTON HOTEL*
Information at <http://www.publicshore.com/pelicanbay.htm>. 5 mile round trip³ walk from the north to south – no water, shade or toilets.

² PUD stands for Planned Unit Development. A PUD is typically an area of land developed in accordance with a unified plan approved by the local government.

³ The Tax Appraiser's website has a distance measurement function that places this distance closer to three miles.



Pelican Bay is not listed as a beach but is an area with private development. This image, taken from GG's website at <http://www.publicshore.com/pelicanbay.htm>, highlights the two public access points at Pelican Bay – Vanderbilt Beach at the north, and Clam's Pass, to the south. The two, red dots between the north and south points are access points for Pelican Bay residents.

See Collier County comments regarding Pelican Bay above.

- *COLLIER, CLAM PASS – NORTH OF REGISTRY RESORT HOTEL*
Beach access dead-ends at the Clam Pass River in north, creating a 'private beach' for Pelican Bay.

Clam Pass is described as "remote as local beaches with car access get."⁴ Located at the intersection of Seagate Drive and Crayton Road just south of the Pelican Bay development, there is a public park with lots of beach space and a three-quarter mile elevated boardwalk through a coastal tree canopy. There is free, frequent tram service offered from the parking lot or the beach is about a twenty-minute walk.

The yellow circle at the lower right quadrant of the picture below shows the intersection of Seagate and Crayton Roads. The upper right corner of the picture - where the break in the beach is seen - is Clam Pass. The public park is just south of the Pass, within the yellow rectangle.



⁴ http://www.bonitanews.com/beaches/clam_pass/

The image below is the complete shoreline that exists within the Pelican Bay PUD. Using the county's GIS system, Ms. Townsend highlighted in sea foam green the county parks, including the two beach accesses--Vanderbilt to the north and Clam Pass to the south--and Pelican Bay Community Park further inland. The light blue areas represent all other county-owned land within the PUD. There is no real public access to any of the areas in blue. The boundaries of the PUD itself are the roadway on the north that the Vanderbilt access and the community park are on; the roadway to the south that Clam Pass Park borders, and the strong north-south line in the center of the image, which is US 41.



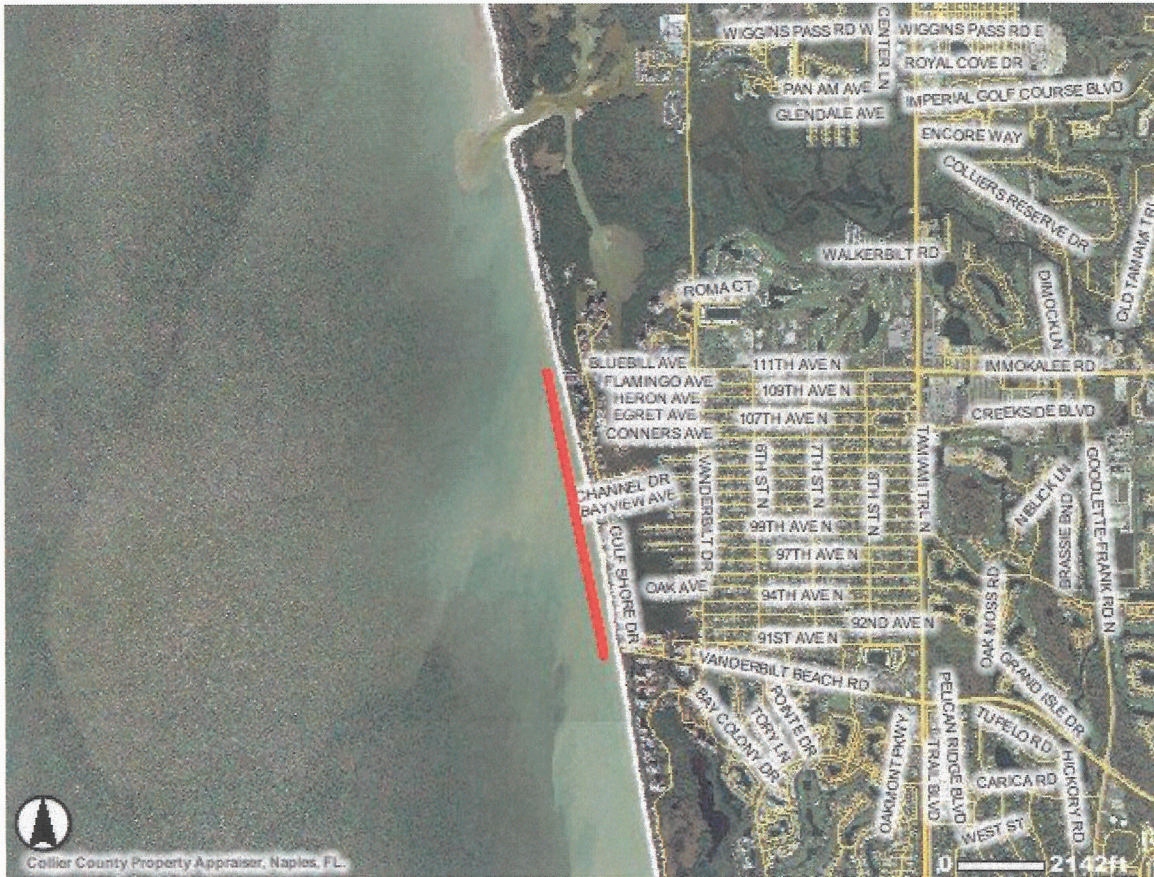
- *COLLIER, VANDERBILT BEACH – NORTH OF RITZ CARLTON* Very long stretch of beach has no access walkways and no parking from the Ritz to the State Beach Park at Wiggins Pass in the north.

Vanderbilt Beach lies in north Collier County. Dozens of resorts, condominiums and restaurants are within walking distance of the beach. According to the beach guide, parking is at a premium, although the county is building a multi-level parking garage within walking distance.⁵

At the bottom third of the graphic below is the Vanderbilt Beach Road which dead ends at the Vanderbilt Beach access. A red line connects the distance north to Bluebill

⁵ http://www.bonitanews.com/beaches/vanderbilt_beach/

Avenue, which marks the entrance to the Wiggins Pass State Park, referenced in GG's comment. The distance between the two points is approximately one mile.



According to Ms. Townsend of Collier County, there are seven (now eight with the Vanderbilt Inn deal) beach access points between Vanderbilt Beach Park and Delnor Wiggins State Park. A few of these have recently been refurbished. Three others are in litigation due to differences in interpretation of the plat documents between the county and local residents. All, with the exception of #8, which has yet to be developed, are only 5 feet wide. None have associated parking or facilities (rest rooms).

- *COLLIER, BAREFOOT BEACH – NORTHERN COLLIER COUNTY*
Entrance appears to be private which tourists avoid – drive few miles through beachfront subdivision to get to county beach. The entrance was under litigation and the Attorney General was involved to no avail.

Barefoot Beach is actually on the same land mass - Little Hickory Island - as Bonita Beach. The south end of the island is home to a preserve. County rangers offer a long list of activities and educational programs, ranging from guided canoe trips to presentations on protected species like sea turtles and wading birds. There is little development on the south end of Barefoot Beach and the beach is secluded from condominiums and commercial strips. On the negative side, to get there one needs to drive from Bonita Beach Road to the preserve through the upscale Lely Barefoot Beach development. There is only one entrance at Lely Beach Boulevard, with a gatehouse and guard for private residences. The gate, according to http://www.bonitanews.com/beaches/barefoot_beach/ can make it hard for potential visitors to find the beach. The picture below is from the Collier County Property Appraiser's Office website, and shows the guardhouse near the entrance to the subdivision circled in yellow.

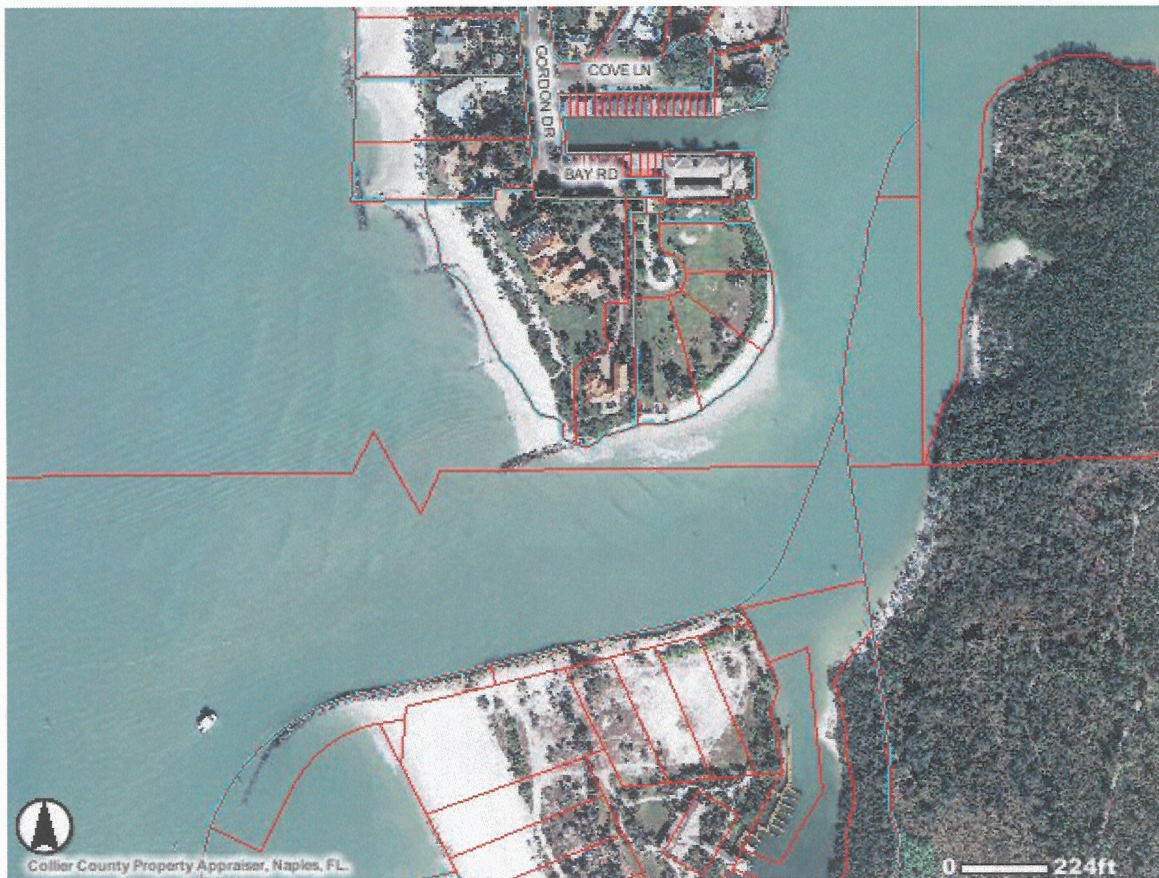


According to Ms. Townsend, there is a guard shack at the entrance to the Barefoot Beach Development through which one must drive in order to reach Barefoot Beach Preserve. Signs are posted at the shack that read something like "Park users proceed directly to park." Park users are not required to stop at the guard shack. The litigation referenced above was resolved in mediation, with the development being allowed to keep the guard post. Admittedly the configuration is less that inviting for first-time park goers.

- *COLLIER, GORDON PASS – SOUTHERN CITY OF NAPLES* Several miles of beach with no access from Public Street in south of Naples.

Gordon Pass is an access point from Naples Bay to the Gulf of Mexico. The nearest public beach area is Keewaydin Island, located on the south side of Gordon Pass, Naples, Fl., which abuts the Rookery Bay National Estuarine Research Reserve. It is described as an “untouched and pristine coastal wilderness” that is “mostly undeveloped shoreline that’s home to an exploding population of invasive iguanas.”⁶ It is a secluded beach with no vehicle traffic, no facilities and a boat is needed to get on and off the island.

North of Gordon Pass is a residential neighborhood. The aerial photo below, from the Collier County Tax Appraiser website, offers a view of the Pass.



According to Ms. Townsend, the City of Naples has beach access points at the terminus of each street in the grid until it ends at approximately 21st Street. South of that is the Port Royal development, which does not have public access.

⁶ http://www.bonitanews.com/beaches/keewaydin_island/

- *COLLIER, HIDEAWAY BEACH – MARCO ISLAND Secluded private subdivision has had public funds pay for beach widening for years. Impossible for kids to reach by foot or general public. See <http://www.publicshore.com/hideawaybeach.htm>*

All of the beaches in Collier County that meet the public access requirements are re-nourished using tourist tax funds, commonly known as a bed tax. This is a continuous public funding source that is the only dedicated revenue source for beach re-nourishment in Collier. The sand placement for Hideaway Beach, however, was paid for by the residents and the homeowners association. Tourist tax was used to install permanent T-Groin structures to prevent future erosion.

According to DEP, if there are no access points, the state will not directly share funding for beach nourishment.

4. Participant IK, of unincorporated Naples in Collier County, also identified Pelican Bay Beach and Vanderbilt Beach as an area of concern:
 - *There is only 1 public access point to this beach, namely at Vanderbilt Beach Road. South of this point is 2 miles of beach inaccessible to the Public. In that 2 mile stretch there are 2 private beach access points for the residents of the Pelican Bay Development. Public access is only possible by walking a very long distance which is impossible when accompanied by small children etc.. Also, the Pelican Bay restroom facilities are not accessible to the public nor the adjacent boardwalks and parking lots. Access to this public beach has been effectively cut off because of private development. North of Vanderbilt Beach Road, at Vanderbilt Beach, is another mile of inaccessible beach although 3 pedestrian access points are located there. No parking or facilities, though. Again, private development keeps the public out. Collier County tried to shuttle people to these access points. But very few people used the trolleys. Families need facilities and parking. the City of Naples has plenty of beach access. But the unincorporated areas of Naples [does not].*

Previous comments regarding Pelican Bay and Vanderbilt beach are addressed above. According to Ms. Townsend, a pilot shuttle system was run Memorial, Independence, Labor, and Thanksgiving Day weekends. Ridership was fairly strong the first two but declined sharply the others. The Parks and Recreation Department intends to run the pilot program for a full calendar year before determining if the service should be implemented permanently. In the future the service will probably only be run on weekends that have historically seen the parking areas at Delnor Wiggins State Park fill to capacity.